

No. 9/4/87-6Lab/4950.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Vinmons Engineer and Founders, Plot No. 199/24, Faridabad.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD.

Reference No. 87/1986

between

SHRI KALICHARAN C/O SHRI CHAMAN LAL OBERAI, GENERAL SECRETARY, INTUC, ZILA
PARISHAD, 1-A/119, AND THE MANAGEMENT OF M/S VINMONS ENGINEER
AND FOUNDERS, PLOT NO. 199/24, FARIDABAD.

Present :

Shri Chaman Lal Oberai, A.R. for the workman.

None for the management.

AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between Shri Kalicharan, workman and the management of M/s. Vinmons Engineers and Founders, Plot No. 199/24, Faridabad to this Tribunal, for adjudication:—

Whether the termination of services of Shri Kalicharan is justified and in order? If not, to what relief is he entitled?

2. The case of the petitioner is that he was employed as moulder on monthly salary of Rs. 600 with the respondent with effect from May, 1984. He alleged that his services have been terminated illegally on 6th July, 1986 without issuing any notice or paying any compensation under section 25-F of the Industrial Disputes Act, 1947. He thus assailed the order of termination of his service and prays for reinstatement with full back wages and with continuity of service.

3. Notices were issued to the Management who appeared through Harnam Singh, Authorised Representative. Later on the Management and its authorised representative failed to put in appearance. As such *ex parte* proceedings were ordered against the respondent.

4. I have heard Shri C. L. Oberai and gone through the record. Kalicharan WW-1 petitioner came in the witness box. He has supported his case on oath. He categorically deposed that he was employed in May, 1984 and his services have been terminated on 6th July, 1986 without any retrenchment compensation or serving any notice. There are no reasons to disbelieve his sworn testimony particularly when the Management has not come forward to refute the stand of the petitioner. It is clearly established that the petitioner has been in continuous service of more than one year with the employer prior to the date of termination of his service. The termination of services of such employee clearly amounts to retrenchment as defined in Section 2 (oo) of the Industrial Disputes Act, 1947. It is well settled that no workman employed in any industry who has been in continuous service for not less than one year can be retrenched without complying with mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. In the instant case, the petitioner has clearly stated that no notice or pay in lieu thereof or retrenchment compensation was paid to him at the time of retrenchment. Hence the termination of services of the employee have been effected without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 as such the same can not be sustained.

In the result I hold that the termination of service of the petitioner is illegal and void *ab initio*. Consequently the order of termination of the employee is set aside and he is ordered to be reinstated with full back wages and with benefits of continuity of service. The *ex parte* award is passed in favour of the workman.

Dated the 19th May, 1987.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 583, dated the 30th May, 1987.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.